

REMARKS/ARGUMENTS

In the restriction requirement dated May 16, 2007, the Examiner delineated the following inventions as being patentably distinct:

Group I, Claims 1-6, drawn to a product, classified in class 502, subclass 300+.

Group II, Claims 7-12, drawn to a method of making, classified in class 502, subclass 355.

Group III, Claims 13-15, drawn to an apparatus, classified in class 48, subclass 127.9.

Applicants provisionally elect, with traverse, the invention of Group I (Claims 1-6) drawn to a product.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (M.P.E.P. § 803). The burden of proof is on the Examiner to provide reasons and/or examples to support any conclusions that the claims of the restricted groups are patentably distinct. The claims of Groups I and II are related as products and the process for making said product, and are considered to be interdependent and should be examined together on the merits, especially wherein the sole disclosed utility of the product is that recited in the specification.

The claims of Group I are integrally linked with the claims of Groups II and III as combination/subcombination the claims of Groups II and III further define the invention of Group I, and the refusal to examine the claims of Groups II and III is a denial of substantive rights. The Examiner has failed to show, other than allege, that the claims of Groups II and III have other uses besides that shown by the instant invention. There is a commonality that exists between Groups I, II and III. It is a technical relationship that involves the same

feature, and it is this technical feature that defines the contribution which each of the groups taken as a whole makes over the prior art.

Different classification of subject matter to be divided is not conclusive proof of independent status and divisibility.

Applicants respectfully traverse on the grounds that the Office has shown that a burden exists in searching the entire application.

Further, the MPEP at § 803 states as follows:

“If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on its merits, even though it includes claims to distinct or independent inventions.”

The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as an alternative within a single claim.

For the reasons set forth above, Applicants request that the restriction requirement be withdrawn.


Applicants further request that if the invention of Group I is found allowable, withdrawn Groups II and III which include all the limitations of the allowable claims be rejoined.

Respectfully submitted,

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